

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

| | | |
|-----------------------|---|--------------------|
| MONTE DIAMOND GAINES, |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | NO. CIV-12-0083-HE |
| |) | |
| JUSTIN JONES, |) | |
| |) | |
| Defendant. |) | |

ORDER


Magistrate Judge Erwin previously recommended that petitioner's request for writ of habeas corpus be denied, by Report and Recommendation filed September 12, 2013 [Doc. #25]. Petitioner filed, within the time for objection, a response indicating a desire to object but confusion as to how to do so [Doc. #26]. The court then entered an order [Doc. #27] advising petitioner that no form would be provided, but that the objection must state in reasonable detail the nature of his objection to the Report and Recommendation. The order also granted petitioner an extension to December 15, 2013, within which to file his objection. Petitioner was granted a further extension to January 8, 2014, because the previous order was sent to a facility in Holdenville,¹ where petitioner was incarcerated at some point, rather than to the facility in Cushing, where he apparently is now. [Doc. #28]. The clerk was directed to mail the order to petitioner's Cushing address. The extended deadline has now passed, and petitioner has not filed an objection to Judge Erwin's Report and Recommendation.

¹Petitioner has not filed a change of address notice with the clerk, as required by L.Cv.R. 5.4(a).

Having failed to object to the Report and Recommendation, petitioner waived his right to appellate review of the factual and legal issues it addressed. United States v. 2121 E. 30th St., 73 F.3d 1057, 1059 (10th Cir. 1996); *see also* 28 U.S.C. § 636(b)(1)(C) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Accordingly, the court **ADOPTS** Magistrate Judge Erwin’s Report and Recommendation [Doc. #25], and the petitioner’s petition [Doc. #1] is **DENIED**.

IT IS SO ORDERED.

Dated this 14th day of January, 2014.



JOE HEATON
UNITED STATES DISTRICT JUDGE